

Milking the System: Dairy Factories Profiting from USDA "Organic" Certification

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Consumers increasingly bypass conventionally produced foods in favor of those that are certified "organic" by the U.S. Department of Agriculture (USDA), as they reasonably believe that USDA certified organic foods must satisfy more stringent standards than those for conventionally produced items. When it comes to dairy products, however, the USDA has yet to stop factory farm products from carrying the "USDA organic" label.

It's not surprising that dairy factory farms would want to jump on the organic bandwagon. After all, organic dairy was the fastest-growing segment of all organic foods during the 1990s, and, in 2000, grossed \$500 million in sales.(1) By 2003, organic food sales totaled approximately \$10.4 billion, with organic dairy accounting for 13 percent, or about \$1.4 billion.(2) Yet, organic foods are supposed to offer consumers an alternative to conventionally produced foods, so how can dairy factories produce organic items?

While some dairy factory farms claim that their inclusion in the organic market is necessary to meet the demands of consumers, that rationale ignores the fact that consumers choose organics as a more sustainable and less inhumane method of food production. Director of the Organic Consumers Association, Ronnie Cummins, states that "[p]eople are paying more for organic products because they think the farmers are doing it right, that they're treating animals humanely and that the quality of the product is different."(3) Advertising for organic products plays a role in this misleading of consumers. As New York dairy farmer Kathy Arnold pointed out in a recent *Chicago Tribune* article, advertisements lead consumers to believe that organic cows graze on pastures. "They never show cows eating on dry lots....They promote green pastures, the idyllic view of cows on green pastures."(4)

Each time we purchase an organic food product, we are voicing our opposition to the more conventional production methods used by factory farms. Regrettably for consumers and true organic producers, however, we are unwittingly supporting some factory farms when we purchase dairy products that have been certified organic.

"USDA Organic"

In order for its products to be certified organic by a USDA accredited certifying agency, a farm must comply with a number of federal regulations, known as the National Organic Standards. When Congress passed the Organic Foods Production Act of 1990, it authorized the USDA to establish the National Organic Program (NOP), consisting of the regulations and regulatory agents charged with establishing and protecting standards for organic foods.(5)

The Act also authorized the creation of the National Organic Standards Board (NOSB) "to assist in the development of standards for substances to be used in organic production and to advise the Secretary on any other aspects of the implementation of [the Organic Foods Production Act]."(6) The Secretary of Agriculture is authorized to appoint 15 members to serve on the Board which, at present, is comprised of

four farmers/growers, three consumer advocates, three environmental advocates, two handlers/processors, one retailer, one scientist, and one certifying agent.(7)

Any producer or handler claiming its products are organic must be certified by a USDA accredited certifying agency. Certification is performed by state, private, and international agencies accredited by the USDA for this purpose. Exempt operations include small farmers with less than \$5,000 in gross organic sales; however, if such an operation wishes to label its products "organic," it must follow the same production practices established for certified farmers.(8)

Products that carry the "USDA Organic" seal are certified as being at least 95 percent organic. Since use of the seal is voluntary, a product may be organic even if it does not carry the seal.(9) Misuse of the label can result in up to \$10,000 in fines, and false statements to certifying agents can lead to imprisonment.(10)

Certified Organic Dairies

Organically produced foods differ from those produced conventionally in a number of ways. For example, in order for meat, milk, or eggs to be certified organic, that animal must not be given antibiotics or growth hormones and must be fed organic feed.(11)

Furthermore, in contrast to the absence of federal regulations governing treatment of conventionally raised animals while on the farm, the organic standards specify that livestock farmers "must establish and maintain livestock living conditions which accommodate the health and natural behavior of animals."(12) Organically raised livestock must have "[a]ccess to the outdoors, shade, shelter, exercise areas, fresh air, and direct sunlight suitable to the species, its stage of production, the climate, and the environment."(13)

Ruminants, such as cows, must also have access to pasture.(14) The organic standards define pasture as "[l]and used for livestock grazing that is managed to provide feed value and maintain or improve soil, water, and vegetative resources."(15) Producers must provide forage that is suitable to the particular nutritional requirements of the species using the pasture.(16)

The standards do provide some exemptions to the requirement that animals have access to the outdoors. Temporary confinement is permitted as a response to inclement weather, risk to soil or water quality, the animal's stage of production, and conditions under which the health, safety, or well being of the animal could be jeopardized.(17) In contrast, the USDA has stated that "[t]he use of continuous confinement systems...is incompatible with the requirement that organically raised livestock receive access to the outdoors and the ability to engage in physical activity appropriate to their needs."(18)

Pasture

The requirement that cows be given access to pasture is at the heart of the debate over products from dairy factory farms being certified as organic. Some industrialized facilities have used the temporary confinement exemption to raise cows almost exclusively in outdoor pens, maintaining that the authorization to temporarily confine cows due to their "stage of production" includes lactation.(19)

Says Dr. Hubert Karreman, a dairy cow veterinarian who also serves on the National Organic Standards Board, "It's fundamental to organic that cows are eating grass that's rooted in the ground....I'm not in favor of large confinement farms. I like to see cows out on grass, eating in the sunshine, enjoying the landscape. Organic should mean that pasture is the true source of nutrition for the animals." (20) Joe Pedretti, a farmer with Organic Valley Coop, the largest farmer-owned organic coop in the country, says the ideal organic dairy farm has an "80 cow herd, run and managed by a family with 40 to 60 acres of pasture." (21)

Before the organic standards were finalized, the NOSB accepted public comments regarding the proposed standards. Many individuals and groups who provided comments suggested that the requirement that ruminants have "access to pasture" inadequately characterizes the relationship between animals and the land on which they graze.(22) In response, these commenters suggested that the standards amend the "access to pasture" requirement to say that ruminant production must be "pasture-based."(23) Although the NOSB agreed with this point of view and recommended that the standards require "pasture-based" ruminant production, the NOP retained the "access to pasture" provision, determining that it "provides producers and certifying agents with a verifiable and enforceable standard."(24)

In a subsequent recommendation, the NOSB Livestock Committee stated that "[t]he intent of requiring pasture for ruminants is to ensure an organic production system that provides a living condition that allows the animal to satisfy their natural behavior patterns, provides preventative health care benefits and answers the consumer expectation of humane animal care....Pasture affords ruminants the freedom of choice to satisfy natural behavior patterns."(25)

In the spring of 2005, the NOSB responded to the NOP's request for clarification by passing two rule changes that would have prohibited factory farms from circumventing the access to pasture requirement.(26) The first would have made clear that animals must actually "graze" in order to satisfy the access to pasture requirement, rejecting the position of some factory farms that they satisfied the requirement as long as pasture was available to the animals.(27) The second would have specified that lactation is not a stage of life during which farmers may confine cows, ending the practice of using the temporary confinement exemption to confine cows during most or all of lactation.(28)

When the NOSB recommended these rule changes to the NOP, program staff rejected the modifications and sent them back to the NOSB to begin the process anew.(29) In August 2005, the NOSB passed a guidance document regarding the pasture requirement, which has similarly not been accepted by the NOP.(30)

What You Can Do

The NOSB's next meeting will be held on November 16 and 17, 2005. The USDA will accept public comments on the access to pasture requirement for dairy cows at that time. Furthermore, comments can be submitted via e-mail or postal mail by November 11.

The Cornucopia Institute, a Wisconsin-based think tank that has led the fight against factory farm dairies benefiting from "organic" status, has posted a sample letter to Secretary of Agriculture Mike Johanns that can be viewed here [hyperlink to http://cornucopia.org/sample_letter_usda.doc].

Letters and e-mails should be directed to both of the following:

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- (9) National Organic Program. 2002. Organic Food Standards and Labels: The Facts, http://www.ams.usda.gov/nop/Consumers/brochure.html.
- (10) 7 USCA § 6519; 18 USCA § 1001.
- (11) Organic Foods Production Act, op. cit.
- (12) National Organic Program. Organic Production and Handling Requirements. 7 CFR §205.239.
- (13) Ibid.
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- (15) National Organic Program. Definitions. 7 CFR §205.2.
- (16) National Organic Program. Preamble to Organic Production and Handling Requirements, http://www.ams.usda.gov/nop/NOP/standards/ProdHandPre.html; U.S. Department of Agriculture Economic Research Service. 2003. U.S. Organic Farming in 2000-2001: Adoption of Certified Systems, http://ers.usda.gov/publications/aib780/.
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